



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,635	05/04/2001	Sami Shemtov	551-P-002	1568

7277 7590 06/30/2006

HOWARD C. MISKIN
C/O STOLL, MISKIN, & BADIE
THE EMPIRE STATE BUILDING
350 FIFTH AVENUE SUITE 4710
NEW YORK, NY 10118

EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
----------	--------------

3679

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/849,635	Applicant(s) SHEMTOV, SAMI	
	Examiner Aaron M. Dunwoody	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/5/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-16, 18-35 and 37-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-16, 18-35 and 37-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-16, 18-35 and 37-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language in the preamble of the independent claims and certain portions in the body of the independent claims, thereby making the scope of the claims unclear. The preamble in claim clearly indicates that a subcombination is being claimed, e.g., "a combination device for positioning and securing a pair of electrical wire-carrying conduits to a remote support structure". This language would lead the examiner to believe that the applicant intends to claim only the subcombination of "a combination device" and the "for positioning and securing a pair of electrical wire-carrying conduits to a remote support structure" being only functionally recited. This presents no problem as long as the body of the claim also refers to the functionally, such as, "for positioning and securing a pair of electrical wire-carrying conduits to a remote support structure".

The problem arises when the is positively recited within the body of the claim, such as, "said interior space facing said remote supporting structure." There is an inconsistency within the claims; the preamble indicates subcombination, while in at least one instance in the body of the claim there is a positive recital of structure indicating that the combination of a combination device and a remote support structure are being claimed. The examiner cannot be sure if applicant's intent is to claim merely the

combination device or the remote support structure in combination with the combination device.

Applicant is required to clarify what the claims are intended to be drawn to, i.e., either the combination device alone or the combination of the combination device and the remote support structure. Applicant should make the language of the claim consistent with applicant's intent. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the combination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-16, 18-35 and 37-40 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2846169, Sullivan.

In regards to claims 38 and 39, Sullivan discloses a combination device comprising:

a coupling member (30) adapted to receive and support a conduit, the coupling member comprising a tubular member having at least one end, the end adapted to

Art Unit: 3679

receive one end of the conduit, and the tubular member having a wall containing an aperture (31', 32' and internal nut); and

a connecting member (60) having opposite ends, one end of the connecting member securely engaging the aperture in the wall of the tubular member, the opposite end of the connecting member extending outwardly beyond the wall and adapted to securely engage a remote supporting structure, to securely hold and support the coupling member and the conduit in a selected position.

Note, the remote supporting structure and the conduit are not part of the claimed invention.

In regards to claims 2 and 18, Sullivan discloses the wall being raised relative to the exterior surface of the tubular member.

In regards to claims 3, 4, 19 and 20, Sullivan discloses the aperture being threaded internally and the end of the connecting member is externally matingly threaded for engaging into the internally threaded aperture.

In regards to claims 5-8 and 21-24, Sullivan discloses a lock nut along the stem.

In regards to claims 9-16 and 25-32, Sullivan discloses a stop member (40) projecting internally at about the middle of the tubular member.

In regards to claim 33, Sullivan discloses the end of the connecting member being positioned within the confine of the tubular member in contact with the one conduit (indirectly).

In regards to claim 34, Sullivan discloses each of the ends of the tubular member being externally threaded.

In regards to claim 35, Sullivan discloses each of the ends of the tubular member further having an opening through the tubular member, the opening is internally threaded to receive a set screw for securely positioning the conduit.

In regards to claim 37, Sullivan discloses the aperture being generally perpendicular to the longitudinal axis of the tubular member.

In regards to claim 40, Sullivan discloses the tubular member further having a wall surrounding an interior space, wherein the aperture is adapted to receive the end of the connecting member within the interior space.

Response to Arguments

Applicant's arguments with respect to claims above have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


Art Unit: 3679

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Aaron M Dunwoody
Primary Examiner
Art Unit 3679

.amd